IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 9TH APRIL 2007 / 19TH CHAITHRA 1929

WP(C).No. 11976 of 2007(A)

PETITIONER:

M/S.SHAMS CLAY MINES, REPRESENTED BY
ITS MANAGING PARTNER, HAVING ITS REGISTERED OFFICE
AT CHILAMBIL, SASTHAVATTAM, THIRUVANANTHAPURAM
DISTRICT.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.JIBU P THOMAS
SRI.SUNIL J.CHAKKALACKAL

RESPONDENTS:

---

1. THE STATE OF KERALA REPRESENTED BY THE
SECRETARY TO INDUSTRIES (A) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF MINING AND GEOLOGY,
THE DIRECTORATE OF MINING AND GEOLOGY,
KESAVADASAPURAM, PATTOM, THIRUVANANTHAPURAM.

3. THE GEOLOGIST, DISTRICT OFFICE,
THIRUVANANTHAPURAM.

4. THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM.

5. THE TAHSILDAR, CHIRAYINKEEZHU TALUK,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. I.V. PROMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.11976 OF 2007

DATED THIS THE 9th DAY OF APRIL, 2007

JUDGMENT

Heard the learned counsel for the petitioner as also the learned Government pleader. The Government accorded sanction for a mining lease to the petitioner for extracting China clay from an extent of 2.0925 acres for which a mining lease was also duly executed. The District Collector later issued an order directing abatement of nuisance on the ground that pits caused by excavation of clay were not filled up and benches have not been constructed. The Director of Mining and Geology subsequently issued orders suspending the mining operations noticing the defects like the failure to provide benches and for storage and disposal of rain water. The petitioner is prepared to rectify the defects pointed out, but the petitioner alleges that the Tahsildar is not permitting the petitioner even to enter the demised land to have the shortcomings rectified in accordance with law. The petitioner therefore seeks the following reliefs.

> "(i) issue a writ in the nature of mandamus directing respondents 2 to 5 to forbear from preventing the petitioner to rectify the shortcomings noticed in Ext.P3 as regards the mining of China clay;
>
> (ii) issue a writ in the nature of mandamus directing the second respondent to review Ext.P3 order

suspending mining operations in the event of the petitioner rectifying the shortcomings;

(iii) call for the records leading to the issue of Ext.P2 by the fourth respondent and quash the same by the issue of a writ of certiorari or other appropriate writ, order or direction;

(iv) issue a writ in the nature of mandamus directing the respondents to permit the petitioner to continue the mining operations as per Ext.P1 order for the remaining length of lease period and

(v) issue such other writ, order or direction as this honourable court deems fit and proper in the circumstances of the case."

In the facts and circumstances of the case, I dispose of this writ petition directing respondents 2 to 5 to permit the petitioner to rectify the defect notified in Ext.P3 and to resubmit his claim before the 2nd respondent for appropriate orders. On the petitioner curing the defects pointed out in Ext.P3, the 2nd respondent shall consider the claim of the petitioner for continuing the operations under the mining lease, if the 2nd respondent is satisfied and the petitioner can be allowed to do so I make it clear that I have not expressed any opinion regarding the merits of the contentions of the petitioner in this writ petition. Needless to say any operations made in the land by the petitioner for curing the defect pointed out in Ext.P3 shall be in accordance with law.

S. SIRI JAGAN, JUDGE

Acd